

Attorney Docket No.: F7730(V)
Serial No.: 10/568,560
Filed: February 17, 2006
Confirmation No.: 6503

REMARKS

Applicants thank the Examiners for providing help suggestions during a telephone interview held November 17, 2008 and summarized in an Office Communications mailed November 24, 2008.

Applicants have amended the specification and claims along the lines suggested in the telephone interview.

Amendment to the Specification

It has been well decided in re Mahukar (28 USPQ2d 1801, affirmed in United States Court of Appeals for the Federal Circuit 2007-1196) that a drawing even in a design patent having no written description can provide support for a subsequent utility patent provided the drawing conveys with reasonable clarity to a person of ordinary skill in the art the subject matter described and claimed in the subsequent utility patent.

Paragraph 3 of page 4 has been amended to describe additional features which are also incorporated in the amended claims. These features are all conveyed with reasonable clarity in the original drawings and are now specifically labeled in amended Figure 5 (see below). Thus, the original drawings provide support for the amended specification and claims.

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The specific features recited in the amended specification are that the two bridge parts (9,10) of the partial bridge (Figure 5) intersect the top surface of the lid rim (11) at an internal angle (12) which is less than 90 degrees thereby narrowing the opening of the recess (8) of the lid rim (2) at the plane (13) of the mirror (3).

All the above described features are shown in the original drawings, and now labeled in the amended drawings (see below).

Amendment to the claims

Claim 1 has been amended without prejudice to more clearly define the subject matter of the invention and to recite preferred embodiments of applicants' invention that are more clearly differentiated from the prior art . Specifically, amended claim 1 now specifies that:

- The two-step container lid is suitable for use in situations where a container is covered with a cover foil at the level of the container rim
- The entire mirror (3) and the entire outer part (4) are at the same level as the top rim of the container and the cover foil (to ensure the lid does not rupture the foil seal when the lid is secured on the container).

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- The two bridge parts (9,10), of the one or more partial bridges intersects a top surface (11) of the lid rim (2) at an interior angle (12) of less than 90 degrees thereby narrowing the opening of the recess (8) in the lid rim (2) at the plane (13) of the mirror (3).

Amendment to the Drawings

Figure 5 has been amended to label and clarify the features that are disclosed in the original drawings. No new matter has been added.

A replacement for drawing sheet 2 which contains Figures 3-5 and an annotated version showing the changes that were made are attached.

The changes were made both to add identifying numbers for elements disclosed in the original drawings so that they could be recited in the amended specification and claims and to clarify the label of the bridge parts 9 and 10.

Claim Rejections – 35 USC § 102

Claim 1, 5 and 7 were rejected under 35 USC 102(b) as being anticipated by Mahaffy et al (US 3,883,036). Applicants respectfully request that the Examiner reconsider and withdraw the 102(b) rejection in light of the above amendments and following remarks.

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Relevant Facts

Mahaffy et al is directed to a plastic snap-on cover for use with a disposable cup having a lip about its upper edge.

With Reference to FIGS 2, 3 and 8, the outer part of the Mahaffy lid ("arcuate bead" **17** in FIG 3) falls below the top of the rim of the container **3** (FIG 3). The Arcuate Bead **17** of Mahaffy et al is analogous to applicants "outer part" (feature 4 in applicants' Figure 5).

With Reference to FIG 4 and 7, Mahaffy et al disclose that the notch **20** in the lid rim has an the inner and outer wall which intersect the top on the lid rim **36** (FIG 7) at an interior angle greater than 90 degrees. Thus, in the lid according to Mahaffy et al the opening of the recess formed between the walls of the notch gets bigger as the level of the mirror **35** is approached.

Applicants disclose a lid that is suitable for use in situations where a container is covered with a cover foil at the level of the container rim. This is achieved by requiring that the entire mirror (3) and the entire outer part (4) are at the same level as the top rim of the container and the cover foil.

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Finally, in applicants partial bridge the two bridge parts (9,10) intersects a top surface (11) of the lid rim (2) at an interior angle (12) of less than 90 degrees thereby narrowing the opening of the recess (8) of the lid rim (2) as the plane (13) of the mirror (3) is approached.

Applicants Arguments

...for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. (MPEP 706.02 Item V).

Based on the relevant facts set forth above, applicants' submit that at least the following elements recited in claim 1 are not taught by Mahaffy et al either explicitly or implicitly.

i) A two-step container lid that is suitable for use in situations where a container is covered with a cover foil at the level of the container rim. In contrast to applicants' lid where no part of the lid falls within the container, the arcuate bead 17 of the Mahaffy lid falls below the top of the container rim. Thus, if the container were covered with a cover foil at the level of the top of the container rim, the Mahaffy et al snap-on lid if forced onto the container, would either not seal properly or else severely deform and potentially rupture the cover foil.

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ii) The entire mirror (3) and the entire outer part (4) are at the same level as the top rim of the container and the cover foil. In contrast, the “arcuate bead” **17** of Mahaffy et al, which is analogous to applicants “outer part” (4), falls below the top of the rim of the container as discussed above.

iii) The two bridge parts (9,10), of the one or more partial bridges intersects the top surface (11) of the lid rim (2) at an interior angle (12) of less than 90 degrees thereby narrowing the opening of the recess (8) in the lid rim (2) at the plane (13) of the mirror (3). In contrast, the notch **20** in the lid rim disclosed by Mahaffy et al has inner and outer walls which intersect the top of the lid rim **36** at an interior angle of greater than 90 degrees (FIG 7). Thus, in the Mahaffy snap-on lid, the opening formed between the walls of the notch is bigger at the level of the mirror 35 relative to the opening at the top of the notch.

Absent a disclosure of elements i)-iii) discussed above, Mahaffy et al could not anticipate applicants’ claimed invention.

Claim Rejections – 35 USC § 103

Claims 1 and 9 were rejected under 35 USC §103(a) as being unpatentable over Mahaffy et al (US 3,883,036). Applicants respectfully request that the Examiner reconsiders the 103(a) rejection in view of the above amendments and following remarks.

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Relevant Facts

Same as presented under the 102 rejection above.

Applicants Arguments

To qualify as a 103(a) reference “The prior art reference, or combination of references, must teach or suggest all of the claim limitations (MPEP §2143). In addition to providing at least a suggestion of all the claim limitations, both the suggestion and the reasonable expectation of success must be found in the prior art references, not in Appellant’s disclosure” (See *In re Vaeck*, 20 U.S.P.Q.2d 1438, 947 F.2d 448 (Fed Cir. 1991).


Applicants submit that Mahaffy et al does not disclose explicitly or implicitly the elements i)-iii) discussed above under the 102(b) rejection.

Mahaffy et al addresses a different technical problem from applicants. For example, the notches disclosed by Mahaffy et al furnish an antilock feature for stacking the caps. Applicants lid is suitable for containers having cover foils and the bridges prevent the container rim from entering the lid rim and jamming. Absent a disclosure of element i) – iii) discussed above, Mahaffy et al does not present a *prima facie* case of obviousness.

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If a telephone conversation would be of assistance in advancing prosecution of the subject application, applicants' undersigned agent invites the Examiner to telephone him at the number provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael P. Aronson", written over a horizontal line.

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